

Remarks

In the present response, claims 1 – 17 are presented for examination.

Requirement for Information: 37 CFR § 1.105

Applicants are not aware of any publication not of record that was relied upon to develop the disclosed subject matter and that describes the applicants' invention, particularly as to developing and relying on the formulas labeled equation 2-8.

Claim Rejections: 35 USC § 112

Claim 3, 9, and 16 are rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that applicant regards as the invention. Applicants respectfully assert that these rejections are moot. Claims 3, 9, and 16 are amended to recite that ' $\Psi(b)$ ' is a ratio of the joint bid distribution and the density function and is solved to compute the bid value associated with the selected bidder for the given bid.

Claim Rejections: 35 USC § 102(e)

Claims 1-17 are rejected under 35 USC § 102(e) as being unpatentable over USPN 7,096,197 (Messner). Applicants respectfully traverse.

Each of the independent claims recites numerous recitations that are taught in Messner. Some examples are provided below with respect to claim 1 and other claims.

As one example, claim 1 recites using historical auction data to determine "a first parameter that is a function of a joint bid distribution and a density function related to the joint bid distribution." Messner does not teach this element.

Messner discloses an analysis to predict whether a bid can be expected to be a winning bid (9: 16-18). Messner mentions that the analysis "takes into account past history in bidding against known competitors and information on various types of assets preferred by competing bidders" (10: 1-4). Messner, however, does not further describe in detail how this past historical information is used in the analysis.

In contrast to Messner, claim 1 recites specific limitations regarding how the historical auction data is used to compute a bid value for a selected bidder. Specifically,

claim 1 recites using historical auction data to determine “a first parameter that is a function of a joint bid distribution and a density function related to the joint bid distribution.” Messner never teaches that historical auction data is used in this manner. Again, Messner merely mentions that the analysis takes in account past history of bidding.

Anticipation under section 102 can be found only if a single reference shows exactly what is claimed (see *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 U.S.P.Q. 773 (Fed. Cir. 1985)). For at least these reasons, the independent claims and their dependent claims are not anticipated by Messner.

As another example, claim 1 recites “solving an equation that includes the first parameter and the selected bidder’s value distribution, and not the value distribution of other bidders, to compute a bid value associated with the selected bidder for a given bid.” The previous element in claim 1 further recites that the first parameter is a function of a joint bid distribution and density function. Thus, by combining these two elements, claim 1 recites a specific method for solving the equation to compute a bid value associated with the selected bidder for a given bid. The equation includes a joint bid distribution, a density function, and the selected bidder’s value distribution. Messner does not teach these three different elements in an equation for computing a bid value associated with a selected bidder.

The Examiner cites Messner at column 9, lines 39-50 for allegedly teaching the equation as recited in claim 1. Applicants respectfully disagree.

Messner at column 9, lines 39-50 teaches that ranges of bids are expressed as a statistical distribution. The distribution is sampled to simulate auction scenarios. By contrast, the equation in claim 1 includes three distinct elements: a joint bid distribution, a density function, and the selected bidder’s value distribution. Messner does not consider these three different elements to simulate the auction scenarios. Again, Messner considers the statistical distribution of bid values and samples these values to generate simulated auction results. This technique taught in Messner is very different than the equation recited in claim 1. Again, claim 1 recites a specific method for solving the equation to compute a bid value associated with the selected bidder for a given bid. The equation includes three different elements: a joint bid distribution, a density function, and the

selected bidder's value distribution. The Examiner has failed to show where Messner teaches these three different elements.

For a prior art reference to anticipate under section 102, every element of the claimed invention must be identically shown in a single reference (see *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990)). For at least these reasons, the independent claims and their dependent claims are not anticipated by Messner.

As yet some further examples, dependent claims 2, 8, and 15 recite solving ordinary differential equations. The Examiner cites Messner at column 9, lines 48-61. Applicants have reviewed this section of Messner but find no mention or teaching of solving ordinary differential equations to compute a bid value associated with a selected bidder.

The Examiner is respectfully reminded that anticipation is established only when a single prior art reference discloses each and every element of a claimed invention united in the same way (see *RCA Corp. v. Applied Digital Data Systems, Inc.*, 730 F.2d 1440, 1444 (Fed. Cir. 1984)).

As yet some further examples, dependent claims 3, 9, and 16 recite a specific equation for computing the bid value associated with the selected bidder. The Examiner cites Messner at column 9, lines 48-61. Applicants have reviewed this section of Messner but find no mention or teaching of the specific equation recited in claims 3, 9, and 16.

The Examiner is respectfully reminded that there can be no difference between the claimed invention and the cited reference, as viewed by a person of ordinary skill in the art (see *Scripps Clinic & Research Foundation v. Genentech Inc.*, 927 F.2d 1565, 1576 (Fed. Cir. 1991)).

CONCLUSION

In view of the above, Applicants believe that all pending claims are in condition for allowance. Allowance of these claims is respectfully requested.

Any inquiry regarding this Amendment and Response should be directed to Philip S. Lyren at Telephone No. 832-236-5529. In addition, all correspondence should continue to be directed to the following address:

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Respectfully submitted,

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